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13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 SHERIF W. ABDOU, M.D. and AMIR S.
16 BACCHUS, M.D.,

17 Plaintiffs,

18 v.

19 DAVITA INC., HEALTHCARE PARTNERS
20 HOLDINGS, LLC, and HEALTHCARE
PARTNERS, LLC,

21 Defendants.

22 AND RELATED CLAIMS.
23

Case No. 2:16-cv-02597-APG-CWH

**STIPULATION AND ORDER TO EXTEND
DISCOVERY DEADLINES**

(FOURTH REQUEST)

24 Plaintiffs/Counterdefendants Sherif W. Abdou, M.D. and Amir S. Bacchus, M.D.
25 (“Abdou/Bacchus”) and Defendants/Counterclaimants DaVita Inc. (“DaVita”), DaVita Medical
26 Holdings, LLC, f/k/a HealthCare Partners Holdings, LLC (“HCP Holdings”), and DaVita Medical
27 Management, LLC, f/k/a HealthCare Partners, LLC (“HCP”) (collectively, the “DaVita Parties”)
28 (collectively, the “Parties”), by and through their respective attorneys of record, stipulate and agree

that the discovery deadlines be continued in this matter by an additional one hundred eighty (180) days beyond the dates set forth in the October 13, 2017 Order Extending Discovery (ECF No. 60)¹.

Pursuant to Fed. R. Civ. P. 16(b) and LR 26-4, the parties state the following:

LR 26-4(a) – Discovery Completed to Date

1. On June 19, 2017, the DaVita Parties served the following written discovery:
 - a. Defendants/Counterclaimants’ First Set of Requests for Production of Documents to Plaintiff Sherif W. Abdou, M.D. (the “Abdou Requests for Production”); and
 - b. Defendants/Counterclaimants’ First Set of Requests for Production of Documents to Plaintiff Amir S. Bacchus, M.D. (the “Bacchus Requests for Production”) (jointly, the “DaVita Parties’ Requests for Production”).
2. On July 24, 2017, Abdou/Bacchus served their respective responses to the DaVita Parties’ Requests for Production.
3. In their responses, Abdou/Bacchus objected to the DaVita Parties’ Requests for Production and did not produce any documents.
4. On August 2, 2017, former counsel for Abdou/Bacchus and counsel for the DaVita Parties held a telephonic meet-and-confer regarding Abdou/Bacchus’s responses to the DaVita Parties’ Requests for Production, but were unable to resolve the issues.
5. On August 31, 2017, the DaVita Parties filed their Motion to Compel Production of Documents (ECF No. 49) (the “Motion to Compel”), seeking to compel documents responsive to the DaVita Parties’ Requests for Production.
6. Subsequently, Abdou/Bacchus agreed to produce documents responsive to the DaVita Parties’ Requests for Production.
7. Based on Abdou/Bacchus’s agreement to produce documents, the Parties agreed and the Court ordered to extend Abdou/Bacchus’s deadline to respond to the Motion to Compel. (ECF No. 55.)

¹ By order dated February 28, 2018, the deadline for the Parties to amend the pleadings or add parties was extended to April 11, 2018 (ECF No. 127).

- 1 8. On September 13, 2017 Abdou/Bacchus served the following written discovery:
 - 2 a. Plaintiffs/Counterdefendants' First Set of Requests for Production of
 - 3 Documents to Defendant/Counterclaimant DaVita Inc.;
 - 4 b. Plaintiffs/Counterdefendants' First Set of Requests for Production of
 - 5 Documents to Defendant/Counterclaimant HealthCare Partners Holdings,
 - 6 LLC; and
 - 7 c. Plaintiffs/Counterdefendants' First Set of Requests for Production of
 - 8 Documents to Defendant/Counterclaimant HealthCare Partners, LLC.
- 9 9. On October 5, 2017, Abdou/Bacchus served the following written discovery:
 - 10 a. Plaintiffs/Counterdefendants' Second Set of Requests for Production of
 - 11 Documents to Defendant/Counterclaimant DaVita Inc.;
 - 12 b. Plaintiffs/Counterdefendants' Second Set of Requests for Production of
 - 13 Documents to Defendant/Counterclaimant HealthCare Partners Holdings,
 - 14 LLC; and
 - 15 c. Plaintiffs/Counterdefendants' Second Set of Requests for Production of
 - 16 Documents to Defendant/Counterclaimant HealthCare Partners, LLC.
- 17 10. On October 16, 2017, Abdou/Bacchus served their supplemental responses to the
- 18 DaVita Parties' Requests for Production.
- 19 11. On December 22, 2017, the DaVita Parties served their responses to the
- 20 Plaintiffs/Counterdefendants' First and Second Sets of Requests for Production of Documents.
- 21 12. On January 29, 2018, Plaintiffs/Counterdefendants' served the following written
- 22 discovery:
 - 23 a. Plaintiffs/Counterdefendants' Third Set of Requests for Production of Documents to
 - 24 Defendant/Counterclaimant DaVita Inc.;
 - 25 b. Plaintiff/Counterdefendant Sherif W. Abdou, M.D.'s First Set of Requests for
 - 26 Admission to Defendants/Counterclaimants; and
 - 27 c. Plaintiff/Counterdefendant Sherif W. Abdou, M.D.'s First Set of Interrogatories to
 - 28 Defendants/Counterclaimants.

13. The DaVita Parties have issued the following subpoenas:
- a. Rule 30(b)(6) Representative(s) of Chicago Pacific Founders Capital Management, LLC: September 22, 2017.
 - b. Custodian of Records for Chicago Pacific Founders Capital Management, LLC: September 22, 2017.
 - c. Rule 30(b)(6) Representative(s) of Chicago Pacific Founders Fund, L.P.: September 22, 2017.
 - d. Custodian of Records for Chicago Pacific Founders Fund, L.P.: September 22, 2017.
 - e. Rule 30(b)(6) Representative(s) of Chicago Pacific Founders GP, L.P.: September 22, 2017.
 - f. Custodian of Records for Chicago Pacific Founders GP, L.P.: September 22, 2017.
 - g. Greg Kazarian: September 22, 2017.
 - h. Lawrence Leisure: September 22, 2017. On September 28, 2017 Defendant served an Amended Deposition Subpoena.
 - i. Custodian of Records for Universal Health Services, Inc.: December 8, 2018.
 - j. Rule 30(b)(6) Representative(s) of Universal Health Services, Inc.: December 8, 2018.
 - k. Karla Perez: November 30, 2017.
 - l. Kamal Jemmoua: November 30, 2017.
 - m. Custodian of Records for Anthem, Inc.: December 14, 2017.
 - n. Rule 30(b)(6) Representative(s) of Anthem, Inc.: December 14, 2017.
 - o. Tammy W. Boswell: January 2, 2018.
 - p. Joshua D. Martin: January 2, 2018.
 - q. Custodian of Records for Humana, Inc.: December 14, 2017.
 - r. Rule 30(b)(6) Representative(s) of Humana, Inc.: December 14, 2017. On January 19, 2018, Humana, Inc. served its objections to the DaVita Parties'

Subpoena to the Rule 30(b)(6) Representative(s) of Humana, Inc.

- s. Rick Beavin: December 14, 2017.
- t. Diane Gregory: January 2, 2018.
- u. Sam Kaufman: January 2, 2018.
- v. Custodian of Records for Aetna, Inc.: March 16, 2018.
- w. Rule 30(b)(6) Representative(s) of Aetna, Inc.: March 16, 2018.
- x. Custodian of Records of Dignity Health: March 16, 2018.
- y. Rule 30(b)(6) Representative(s) of Dignity Health: March 16, 2018.
- z. Custodian of Records of Centene Corporation: March 16, 2018.
- aa. Rule (30(b)(6) Representative(s) of Centene Corporation: March 16, 2018.
- bb. Custodian of Records for Cigna Corporation: March 16, 2018.
- cc. Rule (30(b)(6) Representative(s) of Cigna Corporation: March 16, 2018.
- dd. Custodian of Records for UnitedHealth Group Incorporated: March 16, 2018.
- ee. Rule (30(b)(6) Representative(s) of UnitedHealth Group Incorporated: March 16, 2018.

14. The following depositions are currently scheduled:

- a. Custodian of Records for Aetna, Inc.: May 31, 2018 at 9:00 a.m.
- b. Rule 30(b)(6) Representative(s) of Aetna, Inc.: June 11, 2018 at 9:00 a.m.
- c. Custodian of Records of Dignity Health: May 31, 2018 at 10:00 a.m.
- d. Rule 30(b)(6) Representative(s) of Dignity Health: June 11, 2018 at 1:00 p.m.
- e. Custodian of Records of Centene Corporation: May 31, 2018 at 11:00 a.m.
- f. Rule 30(b)(6) Representative(s) of Centene Corporation: June 12, 2018 at 9:00 a.m.
- g. Custodian of Records for Cigna Corporation: May 31, 2018 at 1:00 p.m.
- h. Rule (30(b)(6) Representative(s) of Cigna Corporation: June 13, 2018 at 9:00 a.m.
- i. Custodian of Records for UnitedHealth Group Incorporated: May 31, 2018 at 3:00 p.m.

j. Rule (30(b)(6) Representative(s) of UnitedHealth Group Incorporated: June 12, 2018 at 1:00 p.m.

15. The following depositions have been taken:

- a. The deposition of Karla Perez, individually and in her capacity as the Federal Rule of Civil Procedure 30(b)(6) Representative of Universal Health Services, Inc. on January 25, 2018.
- b. The deposition of Kamal Jemmoua, individually and in his capacity as the Federal Rule of Civil Procedure 30(b)(6) Representative of Universal Health Services, Inc. on January 24, 2018.

LR 26-4(b) – Discovery Remaining to be Completed

16. A substantial amount of discovery remains to be completed, including numerous depositions, additional written discovery, subpoenas to third parties, and potential expert discovery.

LR 26-4(c) – Reasons Why Remaining Discovery Cannot be Completed within Deadlines

17. On December 18, 2017, Abdou/Bacchus filed a Notice of Appeal [ECF No. 97], appealing to the United States Court of Appeals for the Ninth Circuit the November 17, 2017 order of the district court [ECF No. 92] granting the Motion for Preliminary Injunction [ECF No. 64/66] and issuing a Preliminary Injunction in favor of the DaVita Parties.

18. On January 16, 2018, Abdou/Bacchus filed Appellants' Opening Brief [Dkt Entry: 5] and related Excerpts of Record Volumes 1-4 [Dkt Entry: 6-1 – 6-4] and Volume 5 (filed under Seal).

19. On February 13, 2018, the DaVita Parties filed Appellees' Answering Brief [Dkt Entry: 20] and related Supplemental Excerpts of Record [Dkt Entry: 21].

20. On March 6, 2018, Abdou/Bacchus filed Appellants' Reply Brief [Dkt Entry: 25].

21. On March 6, 2018, Abdou/Bacchus filed a Notice of Appeal [ECF No. 136], appealing to the United States Court of Appeals for the Ninth Circuit the March 7, 2018 order of the district court denying Motion to Dissolve or Modify Injunction [ECF No. 135].

22. Given the substantial amount of discovery to be conducted, the time spent by the Parties conducting written and oral discovery related to the Emergency Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. 64), and the appeals before the United States Court of Appeals for the Ninth Circuit, the Parties concur that the amount of discovery to be completed cannot be done within the current deadlines. This extension request for all discovery

deadlines was anticipated and referenced in the Stipulation to Extend Time to Amend Pleadings (Third Request) (ECF No. 127).

23. This is the fourth request for an extension of deadlines and is not intended to cause any delay or prejudice to any party.

LR 26-4(d) – Proposed Schedule to Complete Remaining Discovery

24. Based on the forgoing, good cause exists to extend the discovery deadlines by 180 days, which the Parties believe is sufficient time to complete the outstanding discovery.

25. The Parties stipulate and agree to extend discovery deadlines as follows:

- | | | |
|----|--|---|
| a. | Discovery deadline: | December 10, 2018 |
| b. | Deadline to amend pleadings: | September 11, 2018 |
| c. | Deadline for initial expert designations: | September 11, 2018 |
| d. | Deadline for interim status report: | October 8, 2018 |
| e. | Deadline for rebuttal expert designations: | October 11, 2018 |
| f. | Deadline for dispositive motions: | January 22, 2019 |
| g. | Deadline for joint pre-trial order: | February 11, 2019 (or 30 days
after the Court announces a
decision on any dispositive
motions) |

DATED this 20th day of March, 2018.

SNELL & WILMER L.L.P.

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DATED this 20th day of March, 2018.

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(f/k/a HealthCare Partners Holdings, LLC); and
DaVita Medical Management, LLC
(f/k/a HealthCare Partners, LLC)*

ORDER

IT IS SO ORDERED:

The discovery deadlines are hereby extended 180 days as follows:

- a. Discovery deadline: December 10, 2018
- b. Deadline to amend pleadings: September 11, 2018
- c. Deadline for initial expert designations: September 11, 2018
- d. Deadline for interim status report: October 8, 2018
- e. Deadline for rebuttal expert designations: October 11, 2018
- f. Deadline for dispositive motions: January 22, 2019
- g. Deadline for joint pre-trial order: February 11, 2019 (or 30 days
after the Court announces a decision on
any dispositive motions)


UNITED STATES MAGISTRATE JUDGE

Dated: March 21, 2018

Respectfully Submitted by:

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By: /s/ Paul C. Williams

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